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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,575	07/30/2003	Lawrence M. Tsal	CV0323 NP	8662
26079	7590	11/01/2005	EXAMINER	
BRISTOL-MYERS SQUIBB COMPANY 100 HEADQUARTERS PARK DRIVE SKILLMAN, NJ 08558			REICHLE, KARIN M	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/630,575	Applicant(s) TSAL ET AL.	
	Examiner Karin M. Reichle	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/04 & 3/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Specification***

1. The drawings are objected to because in the Figures, where is 10? Also element 50 is not shown the same in both Figures 6 and 7. In Figure 5, element 60 denotes the track not the channel as described. In Figure 5, element 64 should not be shown, i.e. is on the side of the slider not shown. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Description

2. The abstract of the disclosure is objected to because legal terminology, i.e. “comprising” should be avoided. Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities: The Summary of the Invention section, i.e. a description of the claimed invention, and the invention of the claims should be commensurate, see MPEP 608.01(d). Also, on page 8, lines 30 and 33, “fastener 34” should be --fastener 36--. On page 15, line 13, “50 52” should be --50, 52--. On page 16, line 16, “bride” should be --bridge--.

Appropriate correction is required.

Claim Objections

4. Claims 2-5, 7-11, 12-17 and 19-24 are objected to because of the following informalities: In claims 2-5, 7-11, 12-17 and 19-23, line 1, “An” or “A” should be --The--. In claim 23, line 2, after “track”, --defining the path-- should be inserted and on the last two lines, “a...track” should be --the curvature of the path along the track--. In Claim 24, line 3, before “sliding”, --the-- should be inserted. On the last line, “of the slider” should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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A positive structural antecedent basis for “the path” should be defined. Note this claim depends from claim 18, not 21.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 3-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Petersen, EP ‘184.

See Figures 5-6, the title, and col. 4, lines 35-40, col. 5, lines 30-36, col. 5, lines 54 et seq, col. 6, line 56-col. 7, line 1, and col. 7, line 41-col. 8, line 41 of Petersen, i.e. Petersen teaches an ostomy pouch having an inner pouch 40 and an outer pouch 46 having a fastener 66, 68 configured to permit reclosable opening of the outer pouch for replacement of the inner pouch. The outer pouch includes a first aperture 26 and the inner pouch includes a second aperture 44 which are at least partly aligned when the pouches are at least in the operative position. The inner pouch is removably securable to the outer pouch by a separable coupling, i.e. pressure sensitive adhesive 50, and permits replacement of the inner pouch. The pouch includes a body fitment, 10, 14, 16, for securing the pouch to the wearer and the separable coupling 50 is secured thereto. The inner pouch is water closet flushable, i.e. water disintegratable, and the outer pouch is reuseable.

8. Claims 18-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Knight ‘051.

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See Figures 1-2 and col. 1, lines 16-39, col. 4, lines 30-32, and col. 5, lines 3-52 of Knight, i.e. Knight teaches a pouch 11 for collecting human body waste, i.e. decomposition products, i.e. for medical use, including an opening, within 20, and a sliding zipper 19. The opening is near the periphery of the pouch (It is noted that “near” is considered relative absent claiming of specific dimension). The zipper provides an openable and closable seam of the pouch (It is noted that the claim does not require that the seam be a peripheral seam nor that it be a seam between the peripheral edges of the front and back layers of the pouch). The zipper extends along a path having a curved portion, see Figures. Since there is at least such a curved portion of the path and absent claiming of the dimension of the path relative to the entire extension of the zipper, the dimension of the portion relative to the path and the lack of definition of the terminology “predominantly curved”, such curved portion is considered to teach the structure of claim 22. The track is 20 and the slider is 19 and the slider has at least one track engaging surface, see col. 5, lines 32-40. It is also claimed in claims 23 -24 that such surfaces have a characteristic to accommodate a curvature of the path of the along the track. However see the discussion supra, i.e. Petersen includes a slider with surfaces which engage and run along a curved path of a track. Therefore, even if not explicitly disclosed, there is sufficient factual evidence for one to conclude that such slider of Petersen would also inherently have a characteristic as claimed, see MPEP 2112.01.

9. Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Sato et al , ‘695.

See Figures 1a-1d and col. 4, lines 61-col. 5, line 25, col. 6, line 55-col. 7, line 61 and col. 1, lines 12-27 of Sato, i.e. Sato teaches an ostomy pouch with an inner pouch 15 having an

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aperture 16, an outer pouch having an aperture 11 and a fastener 14 configured to permit recloseable opening of the outer pouch for replacement of the inner pouch. The apertures are at least partly aligned for communication at least in the operative position.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al in view of Hulett '553.

Applicant claims the fastener for recloseable opening of a pouch being a sliding zipper fastener. While Sato et al teaches a pouch having a fastener, it does not teach such fastener being a sliding zipper fastener. However, see Hulett at the Figures and col. 2, lines 6-23 and 36-40 and col. 3, line 30-35. Therefore, to make the pouch reclosable opening fastener of Sato a pouch reclosable opening sliding zipper fastener as taught by Hulett instead would be obvious, see In re Siebentritt, 54 CCPA 1083, i.e. two equivalents are interchangeable for their desired function, express suggestion of desirability of substitution not needed to render such substitution obvious.

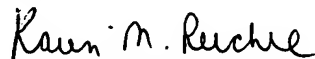
Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art also teaches ostomy pouches or medical use pouches with at least some of the claimed features.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
October 31, 2005